



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

March 30, 2007

Stuart Rabner
Attorney General
Department of Law and Public Safety
P.O. Box 080
Trenton, New Jersey 08625-0080

Dear Attorney General Rabner:

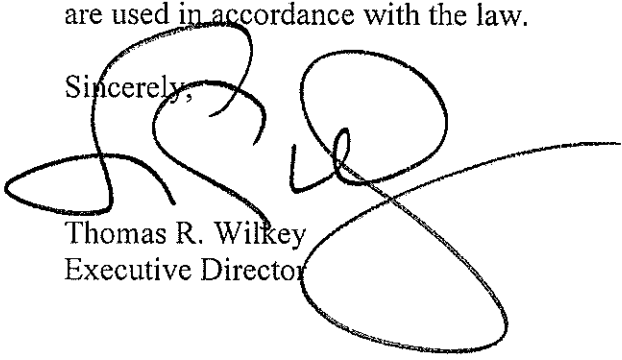
Attached is the final audit resolution report of the U.S. Election Assistance Commission (EAC) regarding the audit of Help America Vote Act (HAVA) funds expended by New Jersey. The resolution is based upon the information provided by the audit conducted by the EAC Office of Inspector General.

After careful consideration of all the facts presented, EAC has determined that the state must repay \$64,514.00 to the U.S. Treasury for unallowable expenditures of federal funds. The state must provide EAC copies of revised equipment inventories and certifications by the counties that the maintenance of effort requirement has been met. EAC has also requested that the EAC Office of Inspector General (OIG) conduct a more in-depth review of the salary expenses examined during the review to determine if costs allocated to salaries should be questioned.

The state shall have 30 days to appeal EAC's management decision. The appeal must be made in writing to the Chairman of the EAC. Within 30 days of receiving the appeal, the Commission may hold a hearing to consider the appeal, take evidence or testimony related to the appeal, and render a decision on the appeal, if appropriate at that time. The Commission will render a final and binding decision on the appeal no later than 60 days following the receipt of the appeal or the receipt of any requested additional information. If the state does not file an appeal, this decision will become final and binding at the expiration of the appeal period.

We appreciate your cooperation in this matter as we work together to ensure that HAVA funds are used in accordance with the law.

Sincerely,


Thomas R. Wilkey
Executive Director



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

Final Audit Resolution Report
New Jersey Evaluation Report – Assignment No. E-HP-NJ-04-06
Issued March 30, 2007

Summary of Decision

The U.S. Election Assistance Commission (EAC or Commission) has determined that the state must repay \$64,514.00 to the U.S. Treasury for unallowable expenditures of federal funds. The state must provide EAC copies of revised equipment inventories and certifications by the counties that the maintenance of effort requirement has been met. EAC has also requested that the EAC Office of Inspector General (OIG) conduct a more in-depth review of the salary expenses examined during the review to determine if costs allocated to salaries should be questioned.

Background

The EAC is an independent, bipartisan agency created by Help of America Vote Act of 2002 (HAVA). It assists and guides state and local election administrators in improving the administration of elections for federal office. EAC provides assistance by dispersing federal funds to states to implement HAVA requirements, adopting the voluntary voting system guidelines, and serving as a national clearinghouse and resource of information regarding election administration. EAC is also responsible for the accreditation of testing laboratories and the certification, decertification, and recertification of voting systems.

In addition to EAC's role in distributing HAVA funds, the agency is responsible for monitoring the fiscally responsible use of HAVA funding by the states. The EAC seeks to ensure funds distributed under HAVA are being utilized for the purposes mandated by HAVA to ultimately improve the administration of federal elections. To fulfill this responsibility, the EAC conducts periodic fiscal audits of state HAVA fund expenditures and determines the any corrective actions necessary to resolve issues identified during audits. EAC is also responsible for resolving issues identified during state single audits conducted under the Single Audit Act. The EAC Office of Inspector General (OIG) has established a regular audit program in order to review the use of HAVA funds by states. The OIG's audit plan and audit findings can be found at www.eac.gov.

The Audit Follow-up Policy approved by the Commission authorizes the EAC Executive Director to issue the management decision for external audits and single audits. The Executive Director has delegated the evaluation of final audit reports provided by the OIG and single audit reports issued by the states to the EAC Programs and Services Division. The Division provides a recommended course of action to the Executive Director for resolving questioned costs, administrative deficiencies, and other issues identified during an audit. The EAC Executive

Director issues a Final Audit Resolution (management decision) that addresses the findings of the audit and details corrective measures to be taken by the state.

When an audit identifies questioned costs, the EAC considers not only whether the state followed proper procurement procedures, but also whether the expenditures actually served to further the goals of HAVA. EAC has identified three methods of resolution regarding questioned costs: 1) Expenditures that were identified as permissible under HAVA and federal cost principles, but did not follow appropriate procedures do not have to be repaid; 2) Expenditures that may have been permissible under HAVA but lacked adequate documentation must be repaid to the state election fund, which was created in accordance with HAVA section 254(b)(1); and 3) Expenditures that were clearly not permissible under HAVA or federal cost principles must be repaid to the U.S. Treasury. In addition to repayment of funds, the EAC may require future reporting by a state to ensure that proper internal controls and procedures have been established to prevent future problems.

States may appeal the EAC management decision. The EAC Commissioners serve as the appeal authority. A state has 30 days to appeal EAC's management decision. All appeals must be made in writing to the Chair of the Commission. The Commission will render a decision on the appeal no later than 60 days following receipt of the appeal or, in the case where additional information is needed and requested, 60 days from the date that the information is received from the state. The appeal decision is final and binding.

Audit History

The OIG conducted a review to assess New Jersey's administration of HAVA funds and compliance with certain HAVA requirements. The assessment conducted by OIG was not a comprehensive audit of the state's HAVA funds usage. The OIG Final Report (Assignment No. E-HP-NJ-04-06) was issued in September 2006 and identified several issues that require EAC resolution. The EAC has obtained additional information from the New Jersey Office of the Attorney General (OAG) in order to make a final management determination.

Audit Resolution

The following categories explain the results of the audit outlined in the final audit report and how the EAC reached its final audit resolution regarding the issues identified by the OIG.

Salaries were not properly supported

We agree with the findings that the state did not maintain appropriate records to document employee time spent on HAVA activities. EAC has requested that the OIG conduct a more in-depth review of these salary expenses to determine if costs allocated to salaries should be questioned in addition to the finding on lack of supporting documentation. In response to the findings on supporting documentation for salary costs, New Jersey has implemented new policies and procedures to appropriately track employee time spent on HAVA related activities.

Fringe benefits were not properly charged to HAVA funds

We agree with the findings that the state did not appropriately charge HAVA employee fringe benefits using the approved fringe benefit rate negotiated with the U.S.

Department of Health and Human Services. The state agreed to repay any fringe benefits charged as direct costs to HAVA funds and charge the approved indirect cost rate instead. Within 30 calendar days, the state must submit a detailed break down of fringe benefits incorrectly charged to HAVA funds and the amounts to be repaid to the state election fund. The next annual financial status report filed with the EAC must reflect any repayment made to the state election fund.

Proper inventories of equipment purchased with HAVA funds were not maintained

We agree with the findings that the state did not maintain appropriate inventory records containing all the elements required by Federal and State requirements for the management of property. The OAG agreed to revise its policies and procedures to ensure that appropriate inventories are being maintained by the state. EAC requests that the state provide updated equipment inventories to document the changes in recordkeeping.

No mechanism was in place to ensure counties sustained the maintenance of effort required by HAVA §254(a)(7)

We agree with the findings that the state did not have a mechanism in place to verify the required maintenance of effort by the counties. The state has agreed to gather certifications from all counties verifying maintenance of effort spending for the previous period and on an annual basis in the future. EAC requests that the state provide copies of the documentation showing maintenance of effort by the counties.

Voter outreach efforts by the state may have been unallowable under HAVA §101(b)

In order to make a determination concerning the allowability of New Jersey's "Be Powerful, Be Heard" voter outreach and education initiative, EAC requested additional information from the state regarding the purpose of the program. While the EAC encourages states to use creative methods to conduct voter education, it appears that the hip hop summits held by the state included entertainment costs that are not allowable under federal guidelines. OMB Circular A-87, Attachment B, Item 14 states "Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable." EAC considers food provided to students at the summits and transportation provided to students to and from the summit as entertainment costs and not an allowable use of HAVA funds. In addition to being unallowable, EAC does not consider the costs reasonable since the summits were broadcast via the internet to other schools that did not incur food and travel expenses to obtain the same information. The state must repay \$64,514.00 to the U.S. Treasury in unallowable entertainment expenditures for the hip hop summits.

Final Management Decision

EAC has determined that the state must repay \$64,514.00 to the U.S. Treasury for unallowable expenditures of federal funds. Repayment cannot be funded by the state's five percent match for requirements payments or the state's maintenance of effort funding. A letter detailing the repayment process to the U.S. Treasury will be sent by EAC within 5 business days following the end of the appeal process.

The state must submit a detailed break down of fringe benefits incorrectly charged to HAVA funds and the amounts to be repaid to the state election fund. The next annual financial status report filed with the EAC must reflect any repayment made to the state election fund. The state must provide EAC copies of revised equipment inventories and certifications by the counties that the maintenance of effort requirement has been met. EAC has also requested that the OIG conduct a more in-depth review of the salary expenses examined during the review to determine if costs allocated to salaries should be questioned, in addition to the finding on lack of supporting documentation. The EAC will take appropriate action to address any additional findings when the OIG review of salaries is finalized.

New Jersey shall have 30 days to appeal EAC's management decision. The appeal must be made in writing to the Chairman of the EAC. Within 30 days of receiving the appeal, the Commission may hold a hearing to consider the appeal, take evidence or testimony related to the appeal, and render a decision on the appeal, if appropriate at that time. The Commission will render a final and binding decision on the appeal no later than 60 days following the receipt of the appeal or the receipt of any requested additional information. If the state does not file an appeal, this decision will become final and binding at the expiration of the appeal period.

Final Audit Resolution Report

New Jersey Evaluation Report – Assignment No. E-HP-NJ-04-06

Attachment 1



**U.S. ELECTION ASSISTANCE
COMMISSION
OFFICE OF INSPECTOR GENERAL**

FINAL REPORT:

**REVIEW OF THE ADMINISTRATION OF
PAYMENTS RECEIVED UNDER THE HELP
AMERICA VOTE ACT BY THE OFFICE OF
THE ATTORNEY GENERAL, NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY**

**Report No.
E-HP-NJ-04-06
September 2006**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1225 New York Ave. NW - Suite 1100
Washington, DC 20005

September 18, 2006

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis W. Crider *Curtis W. Crider*
Inspector General

Subject: Review of the Administration of Payments Received Under the Help America Vote Act by the Office of the Attorney General, New Jersey Department of Law and Public Safety (Assignment No. E-HP-NJ-04-06)

This report presents the results of the subject review, which was initiated by the Office of Inspector General. The objective of the review was to assess New Jersey's administration of Help America Vote Act (HAVA) funds and compliance with certain HAVA requirements.

We found that New Jersey needs to improve its administrative procedures and/or processes for supporting salary allocations, charging fringe benefits, recovering indirect costs, and accounting for property. Also, we determined that the state complied with HAVA requirements for establishing an election fund, for appropriating sufficient state funds to qualify for its allocation of requirements payments, and for maintaining expenditures for elections by the New Jersey Office of Attorney General at least equal to amounts spent in fiscal year 2000. However, the State needs to obtain support from its counties, which according to the State Plan bear the "bulk of fiscal responsibilities" for elections, to ensure that they are also keeping up their rates of spending.

In a May 8, 2006, response to a draft of this report (Attachment 1), the State agreed with our findings and indicated that corrective action had already taken place or was underway.

The report also presents information, in the other matters section, on New Jersey voter outreach efforts pertaining to two Hip-Hop events that were funded with HAVA Title I funds. These events were brought to our attention by the Election Assistance Commission prior to our review and we present this information for your use in determining appropriate uses of HAVA funds.

Since the Commission did not respond to the draft of this report, the recommendations are considered unresolved. Please provide us with your written comments to the report findings by October 25, 2006. Specifically, your comments should indicate whether you agree or disagree with the results of the review. Your response should also indicate the basis and support for any disagreement

Section 5(a) of the Inspector General Act (5 U.S.C. § App. 1) requires the Office of Inspector General (OIG) to list this report in its semiannual report to Congress.

If you have any questions regarding this report, please call me (202) 566-3121.

BACKGROUND

HELP AMERICA VOTE ACT

The Help America Vote Act of 2002 (HAVA) created the U.S. Election Assistance Commission (EAC or Commission) to assist states and insular areas¹ with the administration of Federal elections and to provide funds to states to help implement these improvements. HAVA authorizes payments to states under Titles I and II, as follows:

- ✓ Title I, Section 101 payments are for activities such as complying with HAVA requirements for uniform and nondiscriminatory election technology and administration requirements (Title III), improving the administration of elections for Federal office, educating voters, training election officials and poll workers, and developing a state plan for requirements payments authorized by Title II.
- ✓ Title I, Section 102 payments are available only for the replacement of punchcard and lever action voting systems.
- ✓ Title II, Section 251 requirements payments are for complying with Title III requirements for voting system standards; and addressing provisional voting, voting information, statewide voter registration lists, and voters who register by mail.

Title II also requires that states must:

- ✓ Have appropriated funds “equal to 5 percent of the total amount to be spent for such activities [activities for which requirements payments are made].” (Section 253(b)(5)).
- ✓ “Maintain the expenditures of the State for activities funded by the [requirements] payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.” (Section 254 (a)(7)).
- ✓ Establish an election fund for amounts appropriated by the state for “for carrying out the activities for which the requirements payment is made,” for the Federal requirements payments received, for “such other amounts as may be appropriated under law,” and for “interest earned on deposits of the fund.” (Section 254 (b)(1)).

¹ The Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

***FUNDING FOR
NEW JERSEY***

HAVA funds received and expended by New Jersey are as follows:

<u>TYPE OF PAYMENT</u>	<u>AMOUNT RECEIVED</u>	<u>OUTLAYS</u>	
		<u>AMOUNT</u>	<u>AS OF</u>
101	\$8,141,208	\$2,856,979	12/31/05
102	\$8,695,609	\$8,695,609	12/31/05
251	\$68,067,586	\$5,218,518	09/30/05
Totals	\$84,904,403	\$16,771,106	

***FINANCIAL
MANAGEMENT
REQUIREMENTS***

In New Jersey, HAVA payments are administered by the Office of the Attorney General (OAG). To account for the payments, HAVA requires states to maintain records that are consistent with sound accounting principles, that fully disclose the amount and disposition of the payments, that identifies project costs financed with the payments and with other sources, and that will facilitate an effective audit.

In addition, the Commission notified states of other management requirements. Specifically, that states must:

- ✓ Comply with the Uniform Administrative Requirements for grants and cooperative agreements with state and local governments (also known as the "Common Rule" and published in 41CFR105-71).
- ✓ Expend payments in accordance with cost principles for establishing the allowability or unallowability of certain items of cost for federal participation issued by the Office of Management and Budget in Circular A-87.
- ✓ Follow the requirements of the Federal Cash Management and Improvement Act.
- ✓ Submit annual financial reports on the use of Title I and Title II payments.

OBJECTIVE

The objective of our review was to assess New Jersey's administration of HAVA funds and compliance with certain HAVA requirements. Specifically, we focused on fiscal year 2005 and reviewed controls to assess their adequacy over the expenditure of HAVA funds and compliance with certain HAVA requirements for the following activities:

- ✓ Accumulating financial information reported to EAC on the Financial Status Reports (Standard Forms number 269).
- ✓ Accounting for property.

- ✓ Purchasing goods and services.
- ✓ Accounting for salaries.
- ✓ Charging indirect costs.
- ✓ Spending by counties.

We also determined whether New Jersey had complied with the requirements in HAVA for:

- ✓ Establishing and maintaining the election fund.
- ✓ Appropriating funds equal to five percent of the amount necessary for carrying out activities financed with Section 251 requirements payments.
- ✓ Sustaining the State's level of expenditures for elections.

RESULTS OF REVIEW

SUMMARY

We found that the OAG needs to improve its procedures and/or processes for supporting salary allocations, charging fringe benefits, recovering indirect costs, accounting for property, and tracking county election expenditures. In addition, we found that the state complied with HAVA requirements for the election fund and for appropriating sufficient state funds to qualify for its allocation of requirements payments. Finally, we noted that improvements are also needed to document that counties, which according to the State Plan bear the "bulk of fiscal responsibilities" for elections, are spending an amount for elections at least equal to the amounts spent in fiscal year 2000.

SALARIES

OAG paid all or a portion of certain employee salaries with state funds appropriated to match its allocation of requirements payments. However, the OAG did not keep records adequate to substantiate the amount of time these employees worked on HAVA-related activities. In fiscal year 2005, salaries of \$ 405,890 were paid with state matching funds.

Office of Management and Budget Circular A-87 states that salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards (Attachment B 8.h.(7)). Circular A-87 requires salaries and wages to be supported in the following manner.

Where employees are expected to work solely on a single Federal award or cost objective [100 percent], charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that

program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee. (Attachment B 8.h.(3)).

Where employees work on multiple activities or cost objectives [less than 100 percent], a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation . . . (Attachment B 8.h.(4)).

The HAVA administrator agreed to implement, as soon as reasonably possible, the following recommendations:

1. Require staff who are assigned fulltime to HAVA projects to complete semiannual certifications that they worked only on HAVA activities.
2. Require staff who work on multiple projects during any pay period and who will be funded with HAVA or state matching funds to complete a personnel activity report that identifies to the nearest hour the projects on which he/she worked. The time sheet should account for all hours in the pay period, separately identify HAVA-related hours, and be signed by the employee and the supervisor.

***FRINGE
BENEFITS***

OAG under charged for fringe benefits. The state recorded fringe benefit costs of \$8,623 to its matching funds in fiscal year 2005. In comparison, application of the approved benefit rate of 33.25 percent² to fiscal year 2005 salary charges of \$405,890 results in fringe benefit costs of \$134,958.

Salary costs were first recorded elsewhere in the accounting records and then charged to the state matching funds through several salary adjustments to the accounting records. However, the adjustments did not include the proper charges for associated fringe benefits.

In response to our recommendations, the HAVA Administrator agreed to ensure that:

1. Fringe benefits are charged on the basis of the approved fringe benefit rates.

² The New Jersey Department of the Treasury negotiated with the U.S. Department of Health and Human Services a fringe benefit rate of 25.60 percent plus a rate of 7.65 percent for FICA and Medicare for a total of 33.25 percent. The rates are applicable to fiscal year 2005 base salaries.

2. The accounting records for prior periods are adjusted to properly record the fringe benefits associated with the HAVA program.

INDIRECT COSTS OAG incorrectly charged a portion of the salaries of certain staff in its Division of Administration and Support Services to its state matching funds. This was incorrect because the costs of the Division of Fiscal Services are contained in the indirect cost pool which the OAG used to compute its approved indirect cost rates.³ Thus, based on how the rate was computed, we concluded that the OAG intended to recover the costs of the Division of Administration and Support Services through application of the approved indirect cost rate and not as a direct charge to the HAVA programs.

OAG did not charge indirect costs to the state matching funds or to the HAVA funds. Had it done so, it would have recovered its share of the cost of the Division twice - once as a direct charge and again as an indirect charge.

The HAVA Administrator told us that to recover the cost of administrative support provided by the Division, he conservatively estimated the Division's support to the HAVA program.

We believe that indirect costs should be recovered in accordance with the approved indirect cost rate. Management agreed, and based on our recommendations planned to:

1. Remove the salaries of Division of Fiscal Services staff from the direct charges to the states matching fund. (The state, however, decided not to charge indirect costs to its matching funds, which is its prerogative.)
2. Charge to the HAVA 101 and 251 funds the appropriate indirect costs based on the approved indirect cost rates.

PROPERTY Inventories of equipment purchased with HAVA funds did not contain all the elements required by Federal and State requirements for the management of property. The elements required by the Common Rule (41CFR 105-71.132 (d)(1)) and New Jersey Office of Management and Budget Circular 91-32 are as follows:

³ The Department has negotiated indirect cost rates with the U.S. Department of Justice of 3.84 percent for fiscal year 2003, 4.69 percent for fiscal year 2004, 2.95 percent for fiscal year 2005, and 2.44 percent for fiscal year 2006. The rates are applicable to total direct costs of the HAVA program, less funds passed through to counties.

<i>DESCRIPTION</i>	<i>REQUIREMENTS</i>	
	<i>FEDERAL</i>	<i>STATE</i>
Description of the property	✓	✓
Serial or other identification number	✓	✓
Source of the property	✓	
Source of the monies used to acquire property		✓
Percentage of Federal participation	✓	
Who holds title	✓	
Acquisition date	✓	✓
Cost of the property	✓	✓
Location	✓	✓
Use and condition	✓	
Organizational unit charged with custody		✓
Ultimate disposition data	✓	

The State maintained several inventories of HAVA property. For example, one inventory lists voting machines located in counties; there also is a statewide voter registration system inventory of computer software, hardware, and peripheral equipment such as label writers, barcode readers, and scanners, located in counties, the contractor's hosting and backup facilities, and the OAG's Division of Elections; and another inventory identifies information technology equipment such as computers and computers and printers. Generally, all the inventories identified the name, serial number, and location of each item, but not the other required elements.

In response to our recommendations, management agreed to ensure that all inventory data bases, including inventories that will be maintained by counties after the State transfers title of property to them, will include the information required by the Common Rule and the New Jersey Circular.

***COUNTY
ELECTION
EXPENDITURES***

New Jersey lacks a mechanism to determine whether counties, in using Section 251 requirements payments, were maintaining a level of expenditure of county funds at least equal to the level they expended in fiscal year 2000.

HAVA requires (Section 254 (a)(7)) that the State Plan explain "How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior November 2000." Section Seven of New Jersey's State Plan says that to satisfy this requirement, "all counties and the State must maintain at a minimum the level of operating expenses for elections that was incurred in fiscal year 2000, in addition to any federal funding received."

We found that the state was meeting this requirement but that it did not have information on county expenditures for elections. During our exit conference, New Jersey officials advised that they believed counties were more than satisfying this requirement and that they planned to execute written agreements with the counties that would include provisions for documenting county compliance.

OTHER MATTERS

VOTER OUTREACH

The New Jersey “Be Powerful, Be Heard” voter outreach and education initiative included two hip-hop summits primarily for high school and college students. Prior to the start of our review, EAC provided us with a newspaper article which suggested that the use of Federal funds to finance the events may not have been appropriate.

Based on information produced by New Jersey, we learned that it worked in conjunction with the Hip-Hop Summit Action Network to convene a summit in September 2004 prior to the November general election and in September 2005 before the November Gubernatorial election. The summits were interactive panel discussions between artists such as Reverend Run and Doug E. Fresh and community and voter activists about the importance of voting and issues of concern to young voters. The summits included questions and answers from the audience which consisted principally of high school students. The events were also available to high schools and colleges throughout the state via web casts. The summits may be viewed online by visiting the Office of the Attorney General’s New Jersey HAVA home page at www.state.nj.us/lps/elections/hava_intro.html.

According to New Jersey, about 2,000 students attended the first summit and voter registration forms and educational materials were mailed to the schools before the event. New Jersey estimated that approximately 4,000 students attended the second event and voter registration packets and educational materials were provided to the schools at the event for later classroom use. According to an Office of Attorney General official, voter registration tables were set up at the summits and that “several hundred” registrations were taken, excluding those mailed to the county commissioners of registration. In New Jersey, you can register to vote at the age of 17 as long as you will be 18 years old by the next election.

Based on financial records maintained by the OAG HAVA unit, New Jersey used Section 101 funds of \$131,924 to pay for the summits. A breakdown of the costs between the two summits follows:

<i>DESCRIPTION</i>	<i>COSTS</i>		
	<i>SUMMIT I</i>	<i>SUMMIT II</i>	<i>TOTAL</i>
Busing Students	\$6,155	\$19,430	\$25,585
Meals/Refreshments	12,515	26,414	38,929
Production*	25,143	42,267	67,410
Totals	43,813	88,111	131,924

*Production covers the cost of activities such as event production, facilities rental, web casting, and sign language.

According to HAVA (Section 101 (b)(1)(B) and (C), activities for which Section 101 funds may be used for include:

“Improving the administration of elections for Federal office”
and

“Educating voters [which EAC has concluded⁴ includes those eligible to vote] concerning voting procedures, voting rights, and voting technology.”

This information is presented for your use in determining the appropriate use of HAVA funds.

RECOMMENDATIONS

We recommend that the Executive Director, EAC:

1. Ensure that New Jersey implements the agreed-upon recommendations and incorporates into agreements with counties an appropriate provision for verifying county compliance with the base level expenditure requirement.
2. Determine whether the voter outreach activities and costs associated with the Hip-Hop summits meet the use of funds criteria under Section 101 (b) of HAVA.

⁴ Letter of March 15, 2006, from the Deputy General Counsel, EAC, to the HAVA Coordinator for the State of Washington regarding “Use of HAVA 101 Funds.”

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed

- ✓ The prior single audit report and other reviews related to the Department's financial management systems and the HAVA program for the last 2 years.
- ✓ Policies, procedures and regulations for New Jersey's management and accounting systems as they relate to the administration of HAVA programs.
- ✓ An organizational chart of the Division and a list of all full and part-time employees of the Division indicating those employees whose salary is financed with HAVA funds.
- ✓ Inventory lists of all equipment purchased with HAVA funds.
- ✓ Major purchases.
- ✓ Supporting documents maintained in the accounting system for payments made with HAVA funds.
- ✓ Support for reimbursements to counties.
- ✓ Certain New Jersey laws that impact the election fund.
- ✓ Appropriations and expenditure reports for State funds used to maintain the level of expenses for elections at least equal to the amount expended in fiscal year 2000 and to meet the five percent matching requirement for section 251 requirements payments.
- ✓ Information regarding source/supporting documents kept for maintenance of effort and matching contributions.

We also interviewed appropriate New Jersey employees about the organization and operation of the HAVA program.

We conducted our review in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. As such, we included tests and procedures as considered necessary under the circumstances to evaluate the Department's controls over the administration of HAVA payments. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in administering HAVA payments.



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO Box 081
TRENTON, NJ 08625-0081

JON S. CORZINE
Governor

ZULIMA V. FARBER
Attorney General

THOMAS J. O'REILLY
Administrator

May 8, 2006

Roger LaRouche, Acting Inspector General
United States Election Assistance Commission
1225 New York Avenue N.W. - Suite 1100
Washington, D.C. 20005

Re: Response to New Jersey HAVA Review Report No. E-HP-NJ-04-06

Dear Mr. LaRouche:

This letter is in response to your invitation to comment upon the draft report of a review conducted by your office assessing New Jersey's administration of Help America Vote Act (HAVA) funds and compliance with certain HAVA requirements. The New Jersey Office of the Attorney General (OAG) understands that this response will be included in your final report to the U.S. Election Assistance Commission. The following response addresses the report findings in the order that they appear in the report.

Finding: Salaries - OAG did not substantiate the time spent on HAVA related activities by employees paid with HAVA funds in accordance with the procedures required under the Office of Management and Budget Circular Letter A-87.

Recommendations:

1. Require staff who are assigned full-time to HAVA projects to complete semiannual certifications that they work only on HAVA activities.
2. Require staff who work on multiple projects during any pay period and who will be funded with HAVA or state matching funds to complete a personnel activity report that identifies to the nearest hour the projects on which he/she worked. The time sheet should account for all hours in the pay period, separately identify HAVA related hours and be signed by the employee and the supervisor.



Response: OAG agrees with the findings and the recommendations. HAVA management has created a grant activity log. The activity log captures daily activity by cost objective categories over a bi-weekly pay period. All employees paid with HAVA funds, including employees working exclusively on HAVA-related activities, will complete the activity log. Employees who are not on the HAVA payroll, are not paid under another federal program and are not included in the indirect cost pool who perform HAVA-related tasks will complete the activity log for the pay periods during which they performed HAVA-specific tasks. All hours recorded for a given day must add up to seven. All entries of hours must represent an after the fact determination of hours actually worked in a HAVA related or other activity. The log is signed by the employee and the HAVA Administrator. The log was implemented in Pay Period 8 beginning Saturday April 1, 2006, which means, as a practical matter, that use of the log began on April 3, 2006.

Finding: Fringe Benefits - OAG undercharged for fringe benefits.

Recommendations:

1. Fringe benefits be charged on the basis of the approved fringe benefit rates.
2. The accounting records for prior periods be adjusted to properly record the fringe benefits associated with the HAVA program.

Response: OAG agrees with the finding and the recommendations. OAG will charge the approved benefit rate to salary costs of the HAVA program and is in the process of making prior periods adjustments for fringe benefits.

Finding: OAG incorrectly charged a portion of the salaries of certain staff included in the indirect cost pool as direct costs. OAG did not charge indirect costs to the State matching funds or to the HAVA funds.

Recommendations:

1. Remove the salaries of Division of Fiscal Services staff from the direct charges to the state's matching fund. (The state, however, decided not to charge indirect costs to its matching funds, which is its prerogative).
2. Charge to the HAVA 101 and 251 funds the appropriate indirect costs based on the approved indirect cost rates.

Response: OAG agrees that a portion of salaries of some employees in the indirect cost pool were charged as direct salary costs which would have had a minuscule effect on the indirect cost rate had such salary amounts been excluded from the indirect cost pool. OAG cannot agree that the indirect cost rate should be applied to State matching funds. When this recommendation was first set forth, OAG conferred with the New Jersey Treasury Department which advised that applying the indirect cost rate to State matching funds for federal grants was not a practice anywhere in the State government.

OAG will reverse salary charges for any employee whose salary was included in the indirect cost rate and will apply the indirect cost rate to the HAVA funds.

Finding: Property - Inventories of equipment purchased with HAVA funds did not contain all the elements of information required by Federal and State requirements for the management of property.

Response: OAG agrees with this finding. HAVA management is updating equipment inventories to include all required information.

Finding: County Election Expenditures - New Jersey lacks a mechanism to determine whether counties were maintaining a level of expenditure of county funds at least equal to the level they expended in fiscal year 2000.

Response: OAG agrees with this finding. In order to insure county compliance with the fiscal year 2000 spending requirements, HAVA management intends to communicate with the counties regarding this specific requirement. A directive will be issued to the counties advising them of this HAVA mandate and requiring each county to submit a certification of the amount of election-related expenditures for 2000 through 2005. The counties will also be informed that such certification will be required for each year thereafter and that any future grant award will be partly conditioned on compliance with this federal mandate.

Thank you for the opportunity to comment upon your report.

Very truly yours,



Thomas J. O'Reilly
Administrator

TJO:CAW:cja
c Zulima V. Farber, Attorney General

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The OIG audit mission is to provide timely, high-quality professional products and services that are useful to OIG's clients. OIG seeks to provide value through its work, which is designed to enhance the economy, efficiency, and effectiveness in EAC operations so they work better and cost less in the context of today's declining resources. OIG also seeks to detect and prevent fraud, waste, abuse, and mismanagement in these programs and operations. Products and services include traditional financial and performance audits, contract and grant audits, information systems audits, and evaluations.

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Washington, DC 20005

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Final Audit Resolution Report

New Jersey Evaluation Report – Assignment No. E-HP-NJ-04-06

Attachment 2



JON S. CORZINE
Governor

State of New Jersey
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STUART RABNER
Attorney General

ROBERT J. GILSON
Director

November 27, 2006

Thomas Wilke, Executive Director
Election Assistance Commission
1225 New York Avenue
N.W., Suite 1100
Washington, DC 20005

Re: Explanation of Certain New Jersey HAVA Expenditures

Dear Director Wilke:

You have requested further information regarding the two "hip-hop summits" held by former New Jersey Attorney General Peter C. Harvey. These two events, which utilized funds provided through the "Help America Vote Act of 2002," were part of the multi-faceted New Jersey "Be Powerful, Be Heard" Voter Outreach and Education Initiative. These voter outreach events were held to educate younger New Jersey citizens about HAVA-related electoral procedures and to emphasize the importance of registering and voting.

The primary target audiences for the summits were college students and high school juniors and seniors (in New Jersey, a person can register to vote at the age of 17 as long as he or she will be 18 years old by the next election), and attracted attendees from schools throughout the State. These summits underscored New Jersey's commitment to voter education as an ongoing process.

At the first hip-hop summit in September 2004, approximately 2,000 students attended; packages of voter registration forms and educational material were mailed to the schools before the event. The State also took the unprecedented step of video streaming the summit live over the Internet and invited each school in New Jersey, from primary to college, to participate in this on-line program.

A second hip-hop summit was held the following year to increase voting by young citizens. This summit was held in September 2005, with 4,000 students in attendance. Voter registration packets and educational materials were provided to the schools at the



event for later classroom use. This summit was also video streamed live over the Internet.

Numerous well-known performers and entertainment figures participated in the summits; however, these events were limited to panel discussions on voting and other civic matters. It is important to note that no live entertainment was provided. Voter registration tables were set-up at the events and several hundred registration forms were distributed.

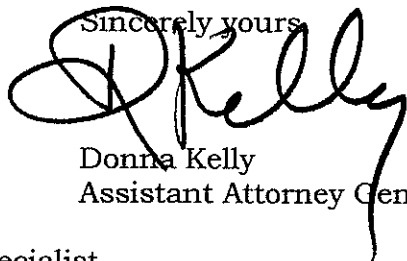
The panelists at both summits were not compensated for their participation. The primary expenses for the summits were rental of the facilities that could accommodate the number of student attendees, lunch for the students, HAVA outreach coordination and reimbursement for bus transportation for those school districts that could not otherwise assume such cost. There were also costs attached to the video streaming.

New Jersey's total outreach efforts in 2004 resulted in 460,000 new registrations, adding to a record number of five million registered voters for the first time in State history. In addition, there was a 50% turnout of voters between the ages of 18-24 for the 2004 November election. This is compared to the 35% turnout in the previous presidential election. We believe that these numbers demonstrate the positive impact of the State's overall voter education and outreach efforts on the participatory electoral process here in New Jersey.

It is important to note that the two hip-hop summits were but one facet of the State's far-ranging HAVA voter education and outreach program. Consistent with Section Three of the New Jersey HAVA State Plan, over the past two years there have been numerous voter education programs conducted at senior citizen centers, the New Jersey National Guard Armory, colleges and public official conferences. Outreach has also been conducted at large public gatherings, such as street fairs and sporting events. The State has also hosted educational public forums on voter fraud and HAVA-compliant voting machine technology.

If you have any questions, please contact my office at your convenience.

Sincerely yours,

A handwritten signature in black ink, appearing to read "DKelly", with a large, stylized "K" and a long, sweeping underline.

Donna Kelly
Assistant Attorney General

c: Edgardo Cortés, Election Research Specialist
Stuart Rabner, Attorney General
Anne Milgram, First Assistant Attorney General